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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **CAROLINE LEE**
14 978 South Kenmore Ave., Apt. 3
Los Angeles, CA 90006

15 Respondent.

Case No. *2011-979*

STATEMENT OF ISSUES

16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
19 her official capacity as the Executive Officer of the Board of Registered Nursing (Board),
20 Department of Consumer Affairs.

21 2. On or about December 17, 2009, the Board received an application for Licensure by
22 Examination as a Registered Nurse from Caroline Lee (Respondent). On or about December 13,
23 2009, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,
24 and representations in the application. The Board denied the application on November 5, 2010.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code unless otherwise
28 indicated.

STATUTORY PROVISIONS

4. Section 480 states, in pertinent part:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. A conviction within the meaning of this section means a . . . conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

....

“(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

“(B)The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the . . . profession for which application is made.”

5. Section 490 states, in pertinent part:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the . . . profession for which the licensee’s license was issued.

“(c) A conviction within the meaning of this section means . . . a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction

1 has been affirmed on appeal, or when an order granting probation is made suspending the
2 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4
3 of the Penal Code.”

4 6. Section 2736 provides that the Board may deny a license when it finds that the
5 applicant has committed any acts constituting grounds for denial of licensure under section 480 of
6 that Code.

7 7. Section 2761 states, in pertinent part:

8 “The board may . . . deny an application for a . . . license for any of the following:

9

10 “(f) Conviction of . . . any offense substantially related to the qualifications, functions,
11 and duties of a registered nurse, in which event the record of the conviction shall be conclusive
12 evidence thereof.”

13 REGULATORY PROVISION

14 8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

15 “A conviction . . . shall be considered to be substantially related to the qualifications,
16 functions or duties of a registered nurse if to a substantial degree it evidences the present or
17 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
18 safety, or welfare. Such convictions . . . shall include . . . : [¶] (a) Assaultive or abusive conduct .
19 . . .”

20 FIRST CAUSE FOR DENIAL OF APPLICATION

21 (Substantially Related Conviction)

22 9. Respondent’s application is subject to denial under sections 280, subdivisions (a)(1)
23 and (a)(3)(B), and 2761, subdivision (f), and subdivision (a) of section 1444 of title 16 of the
24 California Code of Regulations, in that Respondent was convicted of a crime substantially related
25 to the qualifications, functions or duties of a registered nurse. The circumstances are as follows.

26 a. On or about April 23, 2010, after pleading nolo contendere, Respondent, was convicted
27 of violating Penal Code section 245, subdivision (a)(1) (assault by means likely to produce great
28 bodily injury), reduced to a misdemeanor on July 2, 2010 in the criminal proceeding entitled

1 *People v. Lee* (Super Ct. Los Angeles County, 2010, No. BA361634). The criminal court placed
2 Respondent on probation for two years.

3 b. The conviction was based on an incident at a Starbuck's coffee shop in Los Angeles,
4 California. On or about August 20, 2009, Respondent drove her mother's car into a Starbuck's
5 parking lot. She had an altercation with a man who threw a cup of "Frapuccino" coffee at her.
6 Angry that the man did not apologize to her, Respondent blocked his car with her mother's car,
7 and collided into his car. Respondent drove off, and hit two other cars.

8 **SECOND CAUSE FOR DENIAL OF APPLICATION**

9 **(Acts Warranting Denial of Licensure)**

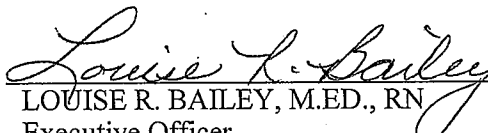
10 10. Respondent's application is subject to denial under sections 480, subdivision
11 (a)(3)(A), 490 and 2736, in that Respondent committed acts which, if done by a licentiate for the
12 profession in question, would be grounds for suspension or revocation of her license.
13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraphs 9, and subparagraphs 9.a. and 9.b. as though set forth fully.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board issue a decision:

- 18 1. Denying the application for Licensure by Exam as a Registered Nurse License; and
19 2. Taking such other and further action as deemed necessary and proper.

20 DATED: 06-13-2011

21 
22 LOUISE R. BAILEY, M.ED., RN
23 Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California
27 Complainant

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